IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Bail Appl..No. 4152 of 2007()

[CRIME NO.436/2007 OF THALIPARAMB POLICE STATION]

PETITIONERS

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1. KELLENAGIL PADBHANABHAN,
   S/O. KUNJIKKANNAN, KEEZHATTOOR,
   TALIPARAMBA P.O.

2. KUNNIL DAMODARAN, S/O. NARAYANAN,
   PULIPARAMBA, TALIPARAMBA P.O.

3. P.V.NANU, S/O. KRISHNAN,
   PADINJARA VEETTIL, KEEZHATTOOR, TALIPARAMBA P.O.

4. MATHEW THOMAS NADUPARAMBIL,
   S/O. OUSEPH, KOOVERI P.O., EDAKKOM.

5. M.LAKSHMI, W/O. UNNI,
   ANAKANDATHIL, KOOVERI P.O.

6. ARAMBHAN NARAYANAN, S/O. CHORIYAN,
   P.O.KUTTIKKOL, TALIPARAMBA.

BY ADV. SRI.H.BADARUDDIN
SRI.C.A.JOSEPH

RESPONDENTS:

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1. SUB INSPECTOR OF POLICE,
   TALIPARAMBA POLICE STATION, KANNUR DISTRICT.

2. STATE OF KERALA, REPRESENTED BY
   ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON 09/07/2007 PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4152 of 2007

Dated this the 10th day of July 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1 to 6 in a crime registered inter alia under Sections 406 and 465 I.P.C. The petitioners are members of the board of directors of a co-operative society. Officials of the co-operative department allegedly inspected the bank in exercise of their powers under Section 66 of the Kerala Co-operative Societies Act. In such inspection, they allegedly unearthed the improprieties and culpable conduct of the board of directors from 1992. Sale of an item of property showing much lesser value than the actual value of the property, tampering with the documents etc have allegedly been committed by the petitioners. Crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Political rivalry is prompting those in power now to misuse the administrative machinery available at their hands to make false and frivolous allegations against the leaders of the co-operative society owing allegiance to the rival political group. All the relevant documents have already been taken into custody by the officials of the co-operative department. There is no necessity at this stage to insist on arrest and incarceration of the

petitioners. Subject to any appropriate conditions as may be fixed by this court, the petitioners may be granted anticipatory bail and they may be saved of the undeserved trauma of arrest and detention by the police.

3. Notice was given. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that it was a bona fide detection of culpable criminal conduct indulged in by the previous office bearers of the society. There is no element of political vendetta or harassment. This is not a fit case where directions under Section 438 Cr.P.C can or ought to be granted. The petitioners may be directed to surrender before the learned Magistrate or the investigating officer and then seek regular bail in the ordinary and normal course, submits the learned Public Prosecutor.

4. I have considered all the relevant inputs anxiously. I am satisfied that this is a fit case where discretions under Section 438 Cr.P.C can and ought to be invoked in favour of the petitioners. Appropriate conditions can of course be imposed, which shall serve the interests of a fair, efficient, expeditious and bona fide investigation.

5. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C.

i) Petitioners shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 17/07/2007.

ii) They shall be released on regular bail on condition that they execute bonds for Rs.25,000/-(Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioners shall make themselves available for interrogation before the investigating officer between 10 a.m and 3 p.m on 18/07/2007 and 19/07/2007 and thereafter on all Mondays between 10 a.m and 12 noon for a period of one month. Subsequently the petitioners shall so appear as and when directed by the investigating officer in writing to do so.

(iv) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law, as if these directions were not issued at all.

(v) If they were arrested prior to 17/07/2007, they shall be released on bail on their executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 17/07/2007.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007